

APPROVED: Meeting No. 7-83

ATTEST:

*Helen M. Heneghan*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
MEETING NO. 5-83

February 28, 1983

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, February 28, 1983, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan; and City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Blick reported the following:

1. The Rockville Recreation and Park Department, in cooperation with the Rockville Art League will sponsor the annual Youth Art Show. Registration was this past weekend with 129 entrants. The works will be on display from Sunday March 6 to Tuesday, March 29 at the Municipal Art Gallery.
2. Since January 5 of this year, there have been 9 confirmed cases of rabies in Rockville. All cases here involved raccoons. Since it is expected the problem will increase during the spring and summer the City is ordering more traps and is keeping an Animal Warden on call at all times.
3. On Thursday, Councilwoman Hovsepian testified in favor of Senate Bill 551 sponsored by Senator Frank Shore. The bill was reported out of committee on Friday and provides that enclaves can be annexed between July 1 and December 31 of this year. The City is now determining if six months is ample time. Under new business it is suggested that the Council discuss the City's position on Home Rule legislation.
4. The new doors to the Council Chamber will be installed tomorrow.
5. The Nelson Street Deli withdrew its application for a wine and beer license. The hearing was scheduled for this month. The City had previously submitted testimony opposing a license.

5. Sue Patterson, Public Information Officer, has been elected to the board of directors of the national capital chapter of the public relations society of America. She also has been elected vice president of the government section and appointed to the national honors and awards committee and will serve on the 1983 silver and gold jury.

Mayor Freeland congratulated Sue Patterson on her election.

Re: Appointments

Mayor Freeland appointed Gerald Leighton to a two year term on the Energy Commission. The Council confirmed the appointment.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. East Rockville Civic Association, Re Maryvale School Site
2. Jeryl Gegan, re thank you
3. County Executive re Takoma Park reunification
4. State Department of Taxation re Constant Yield Tax Rate

Councilwoman Hovsepian noted the method used to reach the constant yield tax rate. Mayor Freeland explained that the inflation factor was built in. The City Manager said the staff is checking with the State Department of Assessments to get more answers on the method employed to reach the figure. The Mayor said the Council would appreciate that information when its ready.

5. J. Shannon, re Montgomery County Social Services shelter.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Elaine Goldberg, 719 Harrington Road, Chairman of the Education Advisory Commission. Mrs. Goldberg thanked the Mayor and Council for the recent joint meeting with the Board of Education and the Commission. She noted that a letter has been included in the briefing material this evening for Mayor and Council approval. If approved, the letter will be sent to the Board requesting that the City have an opportunity to make some suggestion in the choice of a new Superintendent of schools. Mayor Freeland asked the Council's pleasure. It was agreed that the Board should receive the letter as written.

2. Steve Fisher, Vice President of Burgundy Knolls Neighborhood Alliance. Mr. Fisher said an incident has occurred of a rabid raccoon in his neighborhood. The animal control people were unable to catch it. He suggested that more

traps be set out in the area of Red Gate Woods, Wesley Court, Northeast Park. The Mayor explained that resident's support is needed for the use of the traps. They must be set and monitored. Mr. Fisher suggested an article be placed in the City Newsletter explaining the City's procedure and distributing the raccoon traps.

Mr. Fisher suggested that the Public Works Department look at the parking lots at the Civic Center and consider restriping them, now that compact cars are being driven since the parking lot is full most of the time.

Councilman Abrams asked that the City Attorney look into the question of liability for those homeowners who leave unattended raccoon traps in their yards.

3. Baron LeVison, 108 Stonestreet Avenue. Mr. LeVison addressed the Council and told of the problem he has at the place of his business on Stonestreet Avenue and harassment from those people who work in a neighboring business. He and his wife have been threatened and their property has been damaged. This problem has been going on for the past seven weeks and he has received no satisfaction and no assistance to put an end to this. Mayor Freeland apologized to Mr. LeVison for the problems he is experiencing. He said the City Manager needs no guidance. He asked that work be done on this tomorrow.

4. William E. Hanna, Jr.. Former Mayor William E. Hanna congratulated the Mayor and Council on the new look of the Council Chamber. He brought to their attention the parking situation at Wintergreen and he suggested that some of the spaces be painted so they are reserved for parking of larger vehicles. This might help some of the problem since the compact cars can park any where and the larger vehicles cannot.

He said the County Council is monitoring the bill in Annapolis on sewer capacity and they are suggesting amendments to reimburse Rockville if Rockville's capacity is deleted and order that the capacity be returned when Rockville needs it. It should be a tri-party decision, not just the State Health Office. At least the Secretary of Planning, Economic Development and State Health should make the decision together. Mr. Hanna added that it is nice to have citizen's forum, an opportunity to address the Council. He has proposed that this item be incorporated into County Council meetings. He congratulated the Mayor and Council on the signing of a hotel for downtown Rockville.

5. Howard Silberstein, 2008 Dundee Road. Mr. Silberstein welcomed Councilman Abrams back. He told the Council that Commissioner Fredland of the Policy and Pension Committee at Montgomery County, recently resigned in order to allow a minority to gain an entrance onto a committee. He suggested there is a lack of minorities on the City's Committees and he has heard many excuses in the past, but there is still not the representation there that there should be. He drew attention to the mural in the atrium in City Hall and said that is underrepresentative of the City's population. Councilman Tyner asked if anyone in the audience has suggestions on how to improve the representation on the Boards and Commissions to be passed on to the Mayor and Council. If more people applied there would be more opportunity for representation. Councilwoman Hovsepian said the Human Rights Commission is attempting to encourage people to apply. It is not an easy question to answer.

6. Leah Barnett, 19 Orchard Way North. Mrs. Barnett said she is a member of the City of Rockville's Planning Commission, a commission of five members. The Planning Commission is made up of two women, one Hispanic and one American Indian and it is her feeling that that is well representative of minorities. She said she formerly served on the City's Alternative Community Service Commission which had seven members, several were women, two were black and one was an American Indian. She saw no problem with these people being placed on commissions if they would come forth and apply.

Re: Presentation of Lincoln  
Day Awards

George Lipscomb introduced Cathy Landenburger, Chairman of the City's Humanities Commission. Awards were presented for posters, poems and a photograph. In the competition the winners were Donna Day, Gypsyamber Berg-Cross, Michael (Chip) Stek, Christene Gazdik, Roger Foote. Councilman Hanna made the presentation to Laura Bonner, the winner of the William E. Hanna Award, from St. Mary's school for a poem she read to the audience. Mayor Freeland and the Council thanked all those who competed and noted that the winners and honorable mentions will be on display at the Rockville Library for the next week.

Re: Award of Contract: Bid  
No. 40-83, Construction  
of North Washington Street

This project covers the reconstruction and widening of North Washington Street between Jefferson Street and Beall Avenue, at 275' section of West

Middle Lane and a 275' section of West Montgomery Avenue. The Washington Street/Middle Lane funding is a combination of special assessment and general obligation. The work was authorized by the Mayor and Council on February 1, 1982, following a special assessment public hearing. The Montgomery Avenue project was authorized in the FY 83 capital budget with general obligation funding.

Demolition, clearing and grading of the Manhattan Auto site is included and will be accomplished as a first order of priority.

Bids were opened in the City Hall Council Chamber on Thursday, February 17, 1983, at 3:00 p.m. Twenty-three contractors requested bid documents and of this number, four submitted bids.

Lisbon-Madeira, Inc., Kensington, Maryland	\$ 962,356.00
Concrete General, Inc., Gaithersburg, Maryland	982,864.50
F.O. Day, Inc., Rockville, Maryland	1,092,371.25
Tricon-Triangle Contractors, Inc., Potomac, MD	1,117,396.00
Engineer's Estimate	\$ 965,000.00

The low bidder, Lisbon-Madeira, Inc., is an experienced contractor, having worked on similar projects both for the City and surrounding jurisdictions for many years. They are well qualified to provide the City a satisfactory finished product. The bid prices are extremely favorable and well within the budget appropriations and the cost estimates presented at the special assessment public hearing.

Councilman Tyner moved, duly seconded and unanimously passed, that Bid No. 40-83, be awarded to Lisbon-Madeira, Inc., the low bidder, in the amount of \$962,356.00 for construction of North Washington Street.

Mayor Freeland asked that information be made available to the merchants that the schedule will not interfere with any holiday shopping. He asked that the community also be told of this.

Re: Award of Contract:  
Bid No. 41-83, Water Main  
Construction - College Square

Bids were opened on Tuesday, February 15, 1983, at 4:00 p.m. in the City Hall Council Chambers, for the construction of sewer and water mains and house services for Part II of College Square Subdivision. This project will serve twenty-five new townhouse dwellings and was authorized by the Mayor and Council, as a Special Assessment project on October 26, 1981.

Fourteen bids were picked up by contractors and nine were received as follows:

Nazario Construction, Beltsville, Maryland	\$40,120.00
Joseph Canova & Son, Inc., Laurel, Maryland	44,201.25
H.V. Lancon Construction., Wheaton, Maryland	46,360.71
Calcon Company, Inc., Gaithersburg, Maryland	47,996.25
DiMeglio Construction Co., Hyattsville, Maryland	48,657.50
Deneau Construction Inc., Gaithersburg, Maryland	49,206.50
Rapp Contracting, Inc., Beltsville, Maryland	52,105.00
W.F. Wilson & Sons, Ellicott City, Maryland	53,039.75
Damascus Contractors, Damascus, Maryland	54,040.00
Engineer's Estimate	44,395.00

The prices proposed by the low bidder, Nazario Construction, are extremely favorable and continue to reflect the current trends of reduced prices for public water and sewer installations. This contractor is experienced and has previously performed similar work in a satisfactory manner for both the City of Rockville and the Washington Suburban Sanitary Commission.

Staff recommends an award to the low bidder, Nazario Construction, in the amount of their bid of \$40,120.00.

On motion of Councilman Duncan, duly seconded and unanimously passed, bid No. 41-83, was awarded to the Nazario Construction Co., the low bidder, in the amount of \$40,120.00, for the College Square Subdivision - Part II.

Re: Approval of Waiver of  
On-Site Storm Water Manage-  
ment - 1 Curie Court

This site at 1 Curie Court will also be accessible from Fields Road. It is in the Watts Branch watershed 2,500 feet upstream of the Carnation Drive Regional Stormwater Management facility which was constructed last year. A stream flows openly across the lot. Approximately 2½ acres are held in a conservation easement and flood plain where the owners cannot now build. While SWM could be provided in large underground pipes or vaults, this method would cost about \$150,000.

Since a contribution to the public off-site program would be to the advantage of both the developer and the City, it is recommended that the on-site SWM requirement be waived and a contribution be made to the City's off-site SWM program, subject to concurrence by the Montgomery Soil Conservation District. The gross area minus the area of the easement is 5.654 acres, and the contribution would be \$42,130 (\$7451/acre x 5.654).

On motion of Councilman Abrams, duly seconded and unanimously passed, the contribution of \$42,130 was accepted and on-site SWM requirements were waived.

Councilwoman Hovsepian cautioned that the staff keep pace with the SWM program so there will be no run off problems.

Re: Introduction of Ordinance:  
To revise and amend  
Appropriation Ordinance  
No. 19-82, FY83

On motion of Councilman Abrams, there was introduced upon the table an ordinance amending the appropriation ordinance for FY 83, said ordinance to lay over at least a week before final action is taken. Councilwoman Hovsepian asked if copies have been made available to the public. The City Manager said they have been. Councilman Tyner asked that when this is brought back on the agenda, that an update be given to the Council on the revenue the City is receiving.

Re: Adoption of final report  
on recommendations on use  
of Speed Humps

The Mayor and Council received this lengthy report from the Traffic and Transportation Commission on the installation of speed humps in the City. Herbert Pennock, Chairman of the Commission addressed the Council and noted that the net benefit of speed humps can be positive and that the Commission is suggesting that the City proceed with a limited program beginning July 1. This will be limited to the most serious speeding problems. He would suggest that it not be heavily publicized but that the City allow the humps to do their job quietly. The City Manager asked that the Mayor and Council adopt criteria for the installation. He explained the process with the use of a flow chart.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Council approved the criteria, the flow chart and the procedures and the report for action on speed humps. The Mayor asked what action will be taken on South Adams Street. The City Manager said Sue Patterson will develop a folder or brochure to tell people about the process. The Mayor said he raises the issue of South Adams Street since the Mayor and Council told those people they were awaiting a report from the Traffic & Transportation Commission and they would be contacted. The City Manager suggested South Adams Street be used to do

counts and tests. The Mayor suggested that a good part of the testing has been done and this would be a good section to use as an experiment. It could be done right away as another test. Mr. Cutro noted that speed humps are all looked at as learning experiences; however, the speed testing on S. Adams Street has been completed and is way above the requirements. He said he would not comment further at this time. Discussion of the installation continued and it was agreed that although humps are good, they are no substitute for police enforcement, only an augmentation of that. Mayor Freeland asked that information be sent out to the residents of South Adams Street soon.

Re: Public Hearing: Revised  
Agreement for lease of Mall  
parking garage

The Mayor and Council conducted a public hearing on a revised agreement for the lease of the Mall Parking Garage and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed and the record to be held open for one week.

Re: Transfer of Dawson Farm  
House to Peerless Rockville

Resolution No. 9-83

(a) Adoption of Resolution: To approve with conditions, Planned Residential Unit Application, PRU-14B-82, Mayor and Council, Applicant.

On motion of Councilman Tyner, duly seconded and unanimously passed, Resolution No. 9-83, approving PRU-14B-82, Planned Residential Unit Application, was approved by the Mayor and Council.

(b) Approval of membership package alternatives:

The Contract for Sale has been submitted to the Council along with a recent letter from Mrs. McGuckian from Peerless Rockville. The contract allows for the property to be sold to Peerless Rockville for \$1. It also allows for the loan of \$30,000 to be given to Peerless Rockville for the use of the Owens family in restoring the structure. Councilman Abrams moved, that the contract be amended in Section 11F and 11M to provide that no City funds would be issued to Peerless Rockville until it is determined that 45% of the reconstruction is complete. The motion died for lack of a second. Mr. Fitzgerald explained that a letter had been received from Mrs. McGuckian suggesting new language to be included on page 7 in paragraph 18. Councilman Duncan moved, duly seconded that the contract



be approved as amended with that language. Councilman Abrams said he is very concerned and must oppose the amendment. The question of the cost of reconstruction has recurred constantly since there is one estimate from the purchaser and one from the staff. No method has been provided to protect the City. His amendment would provide some objective measure. Lack of any such provision renders the contract unacceptable. Councilman Tyner said he shares that concern but does not know the right answer. The loan is being made to Peerless Rockville and there is no way the City can tell them what to do. If the Council feels a need for further guarantees, he is open to them but not for an absolute percentage. He said he would agree that the City is taking a chance but he discharges his responsibility to Peerless Rockville. Mayor Freeland said that he agrees that there should be no risk taken as to the use of City money. The loan will be repaid by Peerless at the appropriate time. It is beyond the Mayor and Council to decide who is correct at this time and he will prefer to see it rest between Peerless and the Owens. He said he has a proposal. Due to the provision of the Contract, that Peerless establish an escrow account of \$12,000 and then place \$1,000 in it monthly, at the end of one year's time, \$24,000 will be in that escrow account. He would like to see it incorporated into the contract that Peerless would have the prerogative of using that escrow account for one more year if the Owens need additional backing. However, Peerless will be responsible for a 15% interest rate on the money owed to the City. In the mean time, the job will be done according to City code. The City Manager questioned that in that there might be a problem of the City getting repaid. The Mayor said he did not question the fact the City will get paid, but it could be a question of time. However, having the penalty to pay after 12 months, certainly provides an incentive to get it paid earlier. Mr. Weirich from the audience suggested the trustees of the escrow account be the judge of the release of funds. The maker of the motion (Councilman Duncan) and the seconder accepted the Mayor's suggestion as an amendment to the motion. The motion to approve the contract passed unanimously. Mayor Freeland asked that the City Attorney provide a run down on the language to the Mayor and Council and if there is no objection from the Council after it is received it will stand.

Re: Membership fees for Rockville  
Municipal Swim Club

- a) approval of increase in membership fees
- b) approval of membership package alternatives

(a) Approval of increase in membership fees

<u>Category</u>	<u>Actual 1982-83</u>	<u>Proposed 1983-84</u>
Res. Fam. Ann.	\$188	\$202
Res. Ind. Ann.	114	123
Res. Fam. Summ.	149	160
Res. Ind. Summ.	87	94
Res. Fam. Admiss.	51	55
Res. Ind. Admiss.	32	34
Res. Fam. Spec.	6	10
Res. Ind. Spec.	3	5
Non-Res. Fam. Ann.	293	299
Non-Res. Ind. Ann.	161	172
Noon Pass (per Season)	55	60

Proposed New  
Category

Non-Res. Fam. Summer	228
Non-Res. Ind. Summer	133

Submitted to the Council is the proposed FY 84 operating budget operating budget and revenue projections for the Rockville Municipal Swim Center. The staff recommends an average fee category increase of 7.5% in FY 84 in order to maintain the Swim Center as a self-supporting operation.

On motion of Councilman Duncan, duly seconded and unanimously passed, the proposed fees were approved.

(b) Approval of membership package alternatives

There have been outlined two sales strategies for enhancing membership sales at the Rockville Municipal Swim Center (Tax Deductible Donations & Installment Payment Plan). The staff recommends implementing these proposals beginning in FY 84.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council adopted two innovative sales strategies, a Tax Deductible Donation and an Installment Payment Plan, to be implemented in FY 84.

Meeting No. 5-83

-11-

February 28, 1983

Re: Approval of increased  
fees at Red Gate Golf  
Course

In order to keep pace with anticipated FY 84 budget requirements, staff recommends a basic \$.25/9 holes increase in the golf rates and increases in annual memberships of 15%, effective March 1, 1983. For the benefit of Sr. Citizens, the 18-hole weekday rate at \$5 as it was for afternoons last year remains.

On motion of Councilman Duncan, duly seconded and unanimously passed, the proposed rate increase was approved.

Re: FYI

1. Copy of citizen complaint re towing on Rollins Avenue

2. Memo re traffic direction at St. Mary's

Councilman Duncan said the situation has been corrected now.

3. Memo re cable television planning

4. Memo re cheese and butter distribution

5. Memo re Thanksgiving and Christmas projects

6. Copy of Attorney General's letter re HB783 (MC/PG 2-83)

Councilman Tyner said he finds the Assistant City Attorney General's letter incomprehensible. The City Attorney said that he does not agree with that opinion and he has told that to the Attorney General's office. Councilman Tyner said Rockville has been taken out of the bill. He went on to explain the situation and standing of that bill to the Council.

7. Memo re College Traffic/Parking Study

Councilwoman Hovsepian asked the City Manager for an explanation. The City Manager said it is difficult to understand the memorandum but it does mean that the City is still working with the College to improve their efforts.

8. Memo re snow removal costs

9. Memo re Homeowner Sunshine Ordinance

10. Copy of proposed letter to School Board from Advisory Commission re Superintendent selection

11. Memo re adjustments in Ride-on schedule

12. Press release on Cable Agreement

13. Memo from Legal Department re Consumer Protection Legislation

Re: New Business

1. Councilman Tyner gave an update on legislation the Montgomery County Chapter of the Maryland Municipal League took action on Thursday, to support House Bill 1277. The Legislative Action committee reluctantly voted to support

it. The hearing is March 9, in the Lowe Building Room 140. He also reported on HB 583 which raises the fee on the fine for misdemeanors. Councilwoman Hovsepian said she spoke on the testimony for enclaves, but she was bothered by the time limit amendment. The City Manager said six months' time is too short. It would be impossible for the City to do annexations in that period. He is unaware of the steps in annexation and the requirements for advertising hearings etc., but he has asked the Director of Planning to give all that information. The Mayor suggested that the City Manager keep track of it since it might be possible to do it. The City Manager asked if the Mayor and Council would approve sending Mr. Titus to the testimony on the Tillie Frank Legislation. Councilman Tyner said Mr. Moser said he would testify on the bill so it may not be necessary. The City Manager said he will then call Mr. Moser and find out his pleasure.

2. Councilwoman Hovsepian told the Council she has set up a meeting with the City's volunteer service groups on April 18. She will give more details as they are forth coming.

Re: Approval of Minutes

On motion of Councilman Abrams, duly seconded and unanimously passed, the Minutes of Meeting No. 4-83, February 14, 1983, were approved as amended.

Re: Adjournment

On motion of Councilman Duncan, duly seconded and unanimously passed, the meeting was adjourned at 11 p.m. to convene again on Monday, March 7, 1983, at 8:00 p.m. in work session, or at the call of the Mayor.